



CHILD TRAFFICKING IN INDIA : A LEGAL PERSPECTIVE

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ABSTRACT

Trafficking in human beings has traditionally been associated with slavery, and it entails the selling and purchase of human beings as chattel, considering people as commodities that may be purchased and sold. Child trafficking is typically described as the process of recruiting, transferring, transporting, harbouring, or receiving a child under the age of 18 for the purpose of exploitation and exploitation alone. The Indian Constitution expressly bans the trafficking of human persons and the use of forced labour, and Article 23(1) of the Indian Constitution makes these offences criminal. According to international law, a trafficked person cannot be discriminated against simply because they are not a citizen of the country in which they are trafficked. International human rights law extends to everyone who is present within a territory of jurisdiction, regardless of their country or citizenship or how they came to be present within the area of jurisdiction in the first place. Anti-trafficking measures must be implemented throughout the world, with a particular emphasis on trafficking hotspots in both rural and urban areas.

KEYWORDS: Anti trafficking, Article 23, Slavery Child.

INTRODUCTION:

Children under the age of 18 who are recruited, transferred, transported, or received for the purpose of exploitation, whether inside or outside of a nation, are considered victims of child trafficking. According to the National Crime Records Bureau (NCRB), there have been several instances when children have just vanished overnight, with as many as one such incident occurring every minute. In India, there is a huge number of youngsters who are moved for a variety of reasons, including begging, forced labour, and sexual exploitation, to different institutions. It is estimated that the amount of child trafficking in India has grown over the previous decade, however specific figures are not yet available. It is one of the most profitable criminal enterprises in the world, and it is carried out by highly organised criminals. Poverty, a lack of work prospects or education, a breakdown in social institutions, and other factors contribute to the exploitation of children. Victims are subjected to physical and emotional exploitation, and as a result, they are unable to live a healthy life.

DEFINITION:

According to UNICEF: "Any person under 18 who is recruited, transported, transferred, harbored or received for the purpose of exploitation, either within or outside a country"

According to ILO: "Child trafficking is about taking out of their protective environment and preying on their vulnerability for the purpose of exploitation"

HUMAN RIGHTS OF TRAFFICKED PERSONS:

The United Nations and the Universal Declaration of Human Rights affirm that human rights are universal and that they apply to everyone, regardless of their caste, gender, race, ethnic origin, or other characteristics. A trafficked person is entitled to the entire spectrum of human rights regardless of whether or not they are in their country of origin. According to international law, those who have been trafficked cannot be discriminated against simply because they are not citizens of the country in which they are trafficked. Everyone who is on the territory of a state is subject to international human rights legislation. Individuals who are involved in particular forms of trafficking are subject to extra rights or may be in a position to assert such rights. As an example, when it comes to child trafficking, the International Human Rights Law puts significant and extra duties on the governments involved. On the 12th of December, 2002, the Indian government signed the Protocol Against Human Trafficking.

ANTI-TRAFFICKING LAWS IN INDIA:- THE CONSTITUTION OF INDIA

India's constitution expressly prohibits human trafficking as well as forced labour, and Article 23(1) of the Indian Constitution makes both offences punishable by imprisonment. Human trafficking, begging and other similar forms of forced labour are forbidden by Article 23(1), and any violation of this article is a criminal offence punished in accordance with the laws of the country.

Indian Penal Code 1860:

Child trafficking is specifically addressed in different sections of the Indian Penal Code, which was enacted in 1860. For example, criminal penalties for kidnapping, buying or selling minors for prostitution, abduction, and unlawful compulsory labour have been outlined in Section 374 and Section 366A of the Indian Penal Code. Similarly, the procurement of a minor girl from one part of the coun-

try to another is punishable under the Indian Penal Code.

The immoral traffic prevention Act 1956:

Currently, it is the most important legal weapon in the fight against human trafficking. The legislation is based on the trafficking of women for the purpose of prostitution as its foundation. The primary goal has been to eliminate the trafficking of women and girls for the purpose of prostitution as a method of earning a living in an organised manner.

The child labour (Prohibition and Regulation) Act 1976:

This Act forbids the employment of children in the particular occupations listed in Part A of the Act's schedule, which includes the construction industry. According to the Act, no kid is permitted to labour for more than three hours in a row without taking a break of at least one hour in between.

The Juvenile Justice (Care and Protection of Children) Act 2000:

The primary goal of this Act is to ensure that children get appropriate care, treatment, and protection throughout their lives. Section 29 of the Act empowers state governments to establish Child Welfare Committees, which have the ultimate authority to decide on cases. Section 34 of the Act authorises state governments to establish and maintain children's homes for the care and protection of children on their own initiative, and Section 39 of the Act states that the primary goal of a children's home or shelter is the restoration and protection of children.

Goa's Children Act 2003:

The features of this Act are as follows:-

Trafficking was given a legal definition for the first time in the Indian Jurisprudence

The definition of sexual assault was expanded to incorporate every type of sexual exploitation

The photo studios are required to periodically report to the police that they have not shot any obscene photograph of children.

PRESENT STATUES OF TRAFFICKING IN INDIA:

According to the National Crime Records Bureau, there were about 2,200 incidents of trafficking in 2019, with internal trafficking accounting for 95 percent of the cases. According to government data, 6616 people were trafficked, including 2914 minors. However, many victims do not register complaints because they do not understand the law or are afraid of traffickers, thus the true amount might be considerably higher. Save the Children, a worldwide child rights organisation working in over 12 Indian states, feels that the push factors leading to child trafficking increased during the pandemic 2020. The study also noted that intrastate trafficking was a regular occurrence in the majority of states. This was especially evident in Tamil Nadu, where 148 of the 156 interviewed trafficked victims had been subjected to intra-state trafficking. Similarly, Rajasthan has an intra-state rate of 88.4 percent, Bihar has an intra-state rate of 80.26 percent, and Uttar Pradesh has a rate of 73.5 percent. In March 2013, both chambers of parliament enacted the Criminal Law Amendment Bill 2013. It calls for changes to the Indian Penal Code, the Indian Evidence Act, and the criminal process code in relation to sexual offences. It amends the Indian Penal Code to include Section 370A,

which criminalises human trafficking. The term supplied in the new section does not just cover prostitution but also other forms of trafficking. This is evidenced by the use of the phrase "exploitation" rather than "prostitution" in the section. The section's scope had then been expanded.

ROLE OF JUDICIARY:

In Gaurav Jain V Union of India:

The supreme Court held that the children the prostitutes have the right to equality of opportunity, dignity, care, protection and rehabilitation, so as to be part of the mainstream of social life without any stigma attached on them.

In Vishal Jeet V Union of India:

Hon'ble Supreme Court issued direction to the State government for setting up rehabilitate homes for children found begging in streets and also the minor girls pushed into flesh trade to protective homes.

SUGGESTION:

To ensure that constitutional values are upheld and that all citizens, regardless of caste or descent, are able to fully enjoy their rights in India, not only the federal government but also the relevant state governments must take action.

New legislation should be implemented to provide assistance to victims of human trafficking, such as legal assistance, mental support, and assistance in returning to their home nation, village, and community.

A child protection authority should be formed to address issues of child abuse and exploitation, such as trafficking and commercial exploitation of young children.

Enact legislation to prevent minors from becoming victims of human trafficking again if they have already been rescued, as well as to guarantee that they are not further victimised by the law for whatever crimes they may have committed while being trafficked.

The judiciary is responsible for conducting extensive and unbiased nationwide surveys in order to determine the overall number of children trafficked throughout the country. A criminal investigation must be launched against anybody who engages in child trafficking, as well as against anyone who uses coercion and violence to keep minors as traffickers.

CONCLUSION:

The problem of child trafficking cannot be solved by putting it in a vacuum. It is only by arresting the king pin that this situation can be resolved, and in order to do so, the police and the general people must become considerably more alert. It is not a criticism of the police, the administration, or the judiciary; rather, it is a criticism of the inability to recognise and make an attempt to put a stop to child trafficking. Community-based organisations have the grass-roots contacts and trust necessary to facilitate the implementation of the law, while the government has the resources and authority to enforce the law. Child trafficking is a vast, pernicious, and long-standing social ill, and it must be attacked with the same tenacity; anything less than complete commitment will almost certainly fail.

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